

§ 425.202 Application procedures.

(a) *General rules.* (1) In order to obtain a determination regarding whether it meets the requirements to participate in the Shared Savings Program, a prospective ACO must submit a complete application in the form and manner required by CMS by the deadline established by CMS.

(2) An ACO executive who has the authority to legally bind the ACO must certify to the best of his or her knowledge, information, and belief that the information contained in the application is accurate, complete, and truthful.

(3) An ACO that seeks to participate in the Shared Savings Program and was newly formed after March 23, 2010, as defined in the Antitrust Policy Statement, must agree that CMS can share a copy of their application with the Antitrust Agencies.

(b) *Condensed application form.* PGP demonstration sites applying to participate in the Shared Savings Program will have an opportunity to complete a condensed application form.

(c) *Application review.* (1) CMS determines whether an applicant satisfies the requirements of this part and is qualified to participate in the Shared Savings Program.

(2) CMS approves or denies applications accordingly.

§ 425.204 Content of the application.

(a) *Accountability for beneficiaries.* As part of its application and participation agreement, the ACO must certify that the ACO, its ACO participants, and its ACO providers/suppliers have agreed to become accountable for the quality, cost, and overall care of the Medicare fee-for-service beneficiaries assigned to the ACO.

(b) *Disclosure of prior participation.* (1) The ACO must disclose to CMS whether the ACO, its ACO participants, or its ACO providers/suppliers have participated in the Medicare Shared Savings Program under the same or a different name, or is related to or has an affiliation with another Shared Savings Program ACO.

(2) The ACO must specify whether the related ACO agreement is currently active or has been terminated. If it has been terminated, the ACO must specify

whether the termination was voluntary or involuntary.

(3) If the ACO, ACO participant, or ACO provider/supplier was previously terminated from the Shared Savings Program, the ACO must identify the cause of termination and what safeguards are now in place to enable the ACO, ACO participant, or ACO provider/supplier to participate in the program for the full term of the agreement.

(c) *Eligibility.* (1) As part of its application, an ACO must submit to CMS the following supporting materials to demonstrate that the ACO satisfies the eligibility requirements set forth in subpart B of this part:

(i) Documents (for example, participation agreements, employment contracts, and operating policies) sufficient to describe the ACO participants' and ACO providers/suppliers' rights and obligations in and representation by the ACO, including how the opportunity to receive shared savings or other financial arrangements will encourage ACO participants and ACO providers/suppliers to adhere to the quality assurance and improvement program and evidenced-based clinical guidelines.

(ii) A description, or documents sufficient to describe, how the ACO will implement the required processes and patient-centeredness criteria under § 425.112, including descriptions of the remedial processes and penalties (including the potential for expulsion) that will apply if an ACO participant or an ACO provider/supplier fails to comply with and implement these processes.

(iii) Materials documenting the ACO's organization and management structure, including an organizational chart, a list of committees (including names of committee members) and their structures, and job descriptions for senior administrative and clinical leaders including administrative and clinical leaders specifically noted in § 425.108.

(iv) Evidence that the governing body is an identifiable body, that the governing body is comprised of representatives of the ACO's participants, and that the ACO participants have at least